OLR RESEARCH REPORT

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DRUG REHABILITATION FOR CONNECTICUT AND FLORIDA TEENAGERS

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You asked why a 17-year old in Connecticut is allowed to freely leave a drug treatment program while a 17-year old in Florida would be unable to do so. You also asked what options a parent in Connecticut has to intervene with a 17-year old child abusing drugs.

SUMMARY

Whether a person can freely leave a drug treatment program depends on whether the person's participation results from an involuntary commitment or not. A child may be involuntarily committed for substance abuse treatment in both Connecticut and Florida. In Connecticut, the commitment process takes place in probate court. The application for commitment must include a physician's affidavit and a letter from the drug treatment facility where the child will be treated. In Florida, the law allows a parent or guardian to seek drug assessment and stabilization for his or her child in a locked drug treatment facility for up to five days without a court order. A petition must be filed in court for involuntary commitment beyond that time. In both states, a child who is involuntarily committed cannot freely leave the drug treatment facility.

Services are also available in Connecticut through the juvenile courts for a child who is found to be from a family with service needs (FWSN). The services are voluntary, and thus a child is free to leave a program, but continual noncompliance with a court order may result in the child

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being placed in the care and custody of the Department of Children and Families (DCF).

Similarly, a child in need of services (CINS) in Florida is also eligible to receive voluntary services through the Department of Juvenile Justice (DJJ). Continual noncompliance with court ordered services may result in the child being placed in a staff-secure shelter (an unlocked facility) or a physically secure setting (a locked facility).

In both states, a parent or guardian may file criminal charges against his or her child for possessing illegal substances. OLR Report 2012-R-0289 will discuss the juvenile delinquency process.

CONNECTICUT

Involuntary Commitment through Probate Court

A minor may be committed involuntarily to a substance abuse treatment facility through the probate court system. In order for an alcohol- or drug-dependent person to be committed involuntarily, he or she must be (1) dangerous to himself, herself, or others when intoxicated or (2) gravely disabled (CGS § 17a-685).

For more information about the involuntary commitment process, please refer to OLR Report 2012-R-0217.

According to Thomas Gaffey, chief counsel to the probate court administrator, the involuntary commitment process is used very rarely for a number of reasons. The application must be supported by a physician who has examined the person within the previous two days. People facing involuntary commitment are often willingly to comply with a physical examination when the results could be used as a basis for commitment. The application must also include a statement from a treatment facility that agrees to treat the person once he or she is committed. Gaffey states that treatment facilities are generally reluctant to treat people committed involuntarily, and thus fulfilling this requirement is difficult.

Family With Service Needs (FWSN)

Definition. Under Connecticut law, a "family with service needs" (FWSN) is a family that includes a child under age 17 who:

1. has run away from home without just cause;

2. is beyond control of the child's parent, parents, guardian, or other custodian;

3. has engaged in indecent or immoral conduct (including substance abuse);

4. is a truant, habitual truant, or continuously defies school rules and regulations; or

5. is age 13 or older and has engaged in sexual intercourse with another person 13 or older but not more than two years older than the child (CGS § 46b-120(7)).

Collectively, these actions are referred to as status offenses (activities that are deemed offenses when committed by juveniles, but would not be deemed as such if committed by adults). Status offenses are not treated as criminal offenses by the court system.

Effective July 1, 2012, the definition of FWSN will expand to include 17-year-old youths (PA 09-7 September Special Session, § 82).(At present, a 17-year-old who meets the FWSN criteria is designated as a "youth in crisis." Youths in crisis are handled by the courts in essentially the same manner as children from FWSNs.)

FWSN Complaint. A written FWSN complaint may be filed with the superior court by a selectman, the town manager, a police officer, a probation officer, a school superintendent, the DCF commissioner, a DCF-licensed institution or agency, a youth service bureau, the child's parent or foster parent, or the child's representative or attorney (CGS § ***46b-149(a)***).

The court refers the complaint to a probation officer. If a probation officer determines that the FWSN complaint is sufficient, the officer, following an initial assessment, refers the child and the child's family to a community based program, service provider, or, most frequently, to a family support center (FSC) for voluntary services (CGS § 46b-149(b)). Typically, the family does not have to pay for these services. The cost is usually covered by the Court Support Services Division (CSSD) appropriation.

FWSN Services. The FSCs provide evidence-based services to children and their families to address the problematic behavior. The program is designed to stabilize the family unit, identify specific behavior-based interventions for the child, and assess and advocate for the child's educational needs. Depending upon the child's and family's

needs, the FSC may provide services at the center or in the family's home.

If the child and the child's family are referred to an FSC and the FSC leader determines that they can no longer benefit from the services, the leader must inform the probation officer, who may file a petition with the court alleging that the child is from a FWSN. The probation officer must inform the child and the child's family in writing (1) of the court petition and (2) if the family does not meet the FWSN definition or it appears that the allegations are untrue.

Court Petition. When the probation officer files a petition, the court may (1) continue the matter for up to six months in order to allow the family to receive additional services and dismiss the case upon service completion, (2) issue a summons to the child and the child's parents or guardian to appear in court at a specific time and place, or (3) dismiss the petition. Failure of a parent or guardian to appear may result in a contempt of court charge, punishable by a fine up to $100 or a prison sentence of up to six months (CGS § ***46b-149(d)***).

If it appears to the court, based on the allegations, that there is a (1) strong probability that the child will self-injure or runaway prior to court disposition or (2) need to hold the child for another jurisdiction, the court may vest temporary custody in a suitable person or agency (typically DCF), but the child may not be held in a detention facility. The court must hold a temporary custody hearing within 10 days after the judge signs the temporary custody order. After the hearing, the judge may order the temporary custody to continue (CGS § 46b-149(5)).

If the court decides to act on the petition and finds, based on clear and convincing evidence, that the child is from a FWSN, it may:

1. refer the child to (a) DCF for voluntary services, (b) school authorities for services such as summer school, or (c) community agencies providing child and family services;

2. order the child to remain at home or in a relative's or guardian's custody subject to a probation officer's supervision and, in the case of truancy, subject to supervision by school authorities;

3. if the FWSN designation is due to the child's sexual activities, (a) refer the child to a youth service bureau or other agency for participation in a teen pregnancy or a sexually transmitted disease program and (b) require the child to perform community service in

a hospital, an AIDS prevention program, or an obstetric or gynecological program; or

4. upon a finding that there is no less restrictive alternative, commit the child to DCF's care and custody for up to 18 months (CGS § 46b-149(h)).

At any time during the supervision period, the court may modify the conditions after a hearing for good cause. The court must deliver a copy of the modified orders to the child and the child's parent or guardian (CGS § 46b-149(i)).

Violation of Court Order for FWSN Services. If a child from a FWSN violates the court's order for services (such as drug rehabilitation) the court may commit the child to DCF's care and custody, but only if there is no less restrictive alternative appropriate to the child's and community's needs. The court may not send the child to detention or adjudicate the child delinquent for violating a FWSN order (CGS § ***46b-148***). In order for a child to be sent to detention, he or she must be facing criminal charges.

DCF Commitment and Permanency Plan. If the child is committed to DCF, DCF may file a motion for a commitment extension beyond 18 months if it would be in the best interest of the child. At any time during the commitment, DCF may also file a motion to discharge the child. The child and his or her parent or guardian may file a motion to revoke the commitment once every six months (CGS § ***46b-149(j)***).

DCF must hold a permanency hearing for any child committed to its care and custody no later than 12 months after the child is initially committed. At the permanency hearing, the court reviews and approves a permanency plan that (1) is in the child's best interest and (2) takes into consideration the child's need for permanency. The permanency plan may include the goal of:

1. commitment revocation and subsequent placement of the child with his or her parent or guardian,

2. guardianship transfer,

3. permanent placement with a relative,

4. adoption, or

5. any other permanent living arrangement ordered by the court, if DCF has documented a compelling reason why the other options would not be in the child's best interest.

At each permanency hearing, the court must determine whether the DCF commissioner has made reasonable efforts to achieve the goals in the permanency plan (CGS § 46b-149(k)).

FLORIDA

Involuntary Assessment and Stabilization

Under Florida law, a parent or guardian may file an application with an addictions receiving facility to have his or her child admitted involuntarily for assessment and stabilization. An addictions receiving facility is:

1. a secure, acute care facility that provides, at a minimum, detoxification and stabilization service

2. operated 24 hours per day, 7 days per week; and

3. designated by DCFS to serve individuals found to be substance use impaired who meet the criteria for involuntary admission, assessment, and stabilization (Fla. Stat. Ann. § 397.311(18)(a)(1)).

In order to be admitted involuntarily, the minor must have lost self-control over his or her substance use and either:

1. have inflicted, attempted to inflict or, unless admitted, is likely to inflict physical harm on himself or herself or another; or

2. is in need of substance abuse services and, because of substance abuse impairment, is incapable of appreciating his or her need for such services and making a corresponding rational decision. Service refusal alone does not suffice as evidence of lack of judgment regarding need for services (Fla. Stat. Ann. § 397.675).

The child's parent or legal guardian must fill out an application establishing the need for voluntary admission, including factual allegations regarding the reason the applicant believes that the minor is substance abuse impaired and has lost self-control, and the reason the applicant believes either 1) the minor has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted or 2) the minor's refusal to voluntarily receive substance abuse services is based

on judgment so impaired by substance abuse that he or she is incapable of appreciating his or her need for services and making a corresponding rational decision (Fla. Stat. Ann. § 397.6798).

If the application is approved, the child is admitted to the facility. Within 72 hours after involuntary admission, the minor must be assessed by a qualified professional to determine the need for further services. If, after 72 hours, the attending physician determines that further services are necessary, the minor may be kept for up to 48 additional hours. (Fla. Stat. Ann. § 397.6798) At the end of the assessment period, the child must either be released or referred for further voluntary or involuntary treatment (Fla. Stat. Ann. § 397.6799).

A parent, guardian, or service provider, must file a petition in court for involuntary commitment beyond the five day assessment and stabilization period. If the child does not have legal representation, the court must immediately appoint a guardian ad litem to act on the child's behalf (Fla. Stat. Ann. § 397.681).

The petition must include the findings and recommendations from the involuntary assessment and factual allegations establishing the need for treatment, including the reasons the petitioner believes:

1. that the child is substance abuse impaired, and

2. that because of the impairment, the child has lost self-control with respect to substance abuse.

The petitioner must also state the reason he or she believes either:

1. the child has inflicted or is in danger of inflicting physical harm on himself or herself or others unless admitted or

2. the child's refusal to voluntarily receive care is based on impaired judgment due to substance abuse that makes the child incapable of appreciating his or her need for care and making a corresponding rational decision (Fla. Stat. Ann. § 397.681).

The petitioner has the burden of proving these allegations by clear and convincing evidence at the hearing. If the court agrees with the petition, the child may be ordered to receive involuntary substance abuse treatment for up to 60 days. During that 60 day period, the service provider may file a petition to extend the treatment for an additional 90 days. The law does not limit the amount of times the stay may be

extended, but the service provider must file a new petition each time it seeks an additional 90 day extension (Fla. Stat. Ann. § 397.6975).

Child In Need of Services (CINS)

Definition. Under Florida law, a "child in need of services" (CINS) means a child for whom there is (1) no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment, (2) no pending delinquency referral, or (3) no current supervision by the Division of Juvenile Justice (DJJ) or the Department of Children and Family Services (DCFS) for a dependency or delinquency adjudication. The court must find that the child has:

1. persistently run away from the child's parents or guardian despite reasonable efforts by the child, parents or guardians, and appropriate agencies to remedy the conditions contributing to the behavior;

2. been habitually truant from school, despite reasonable efforts by the school to remedy the situation and voluntary participation by the child's parents or guardian and the child in family mediation or services and treatment offered by DJJ or DCFS; or

3. persistently disobeyed his or her parents' or guardian's reasonable and lawful demands, and been beyond their control (including abusing substances) despite efforts by the parents or guardians and appropriate agencies to remedy the conditions contributing to the behavior (Fla. Stat. Ann. § 984.03(9)).

CINS Procedures. The processes for CINS intake, initial services, and court petitions are similar to the procedures used in Connecticut for a child from a FWSN.

Unlike in Connecticut, a Florida court may order a CINS to be placed for up to 90 days in a staff-secure shelter (a facility in which a child is supervised 24 hours a day by staff members) if the:

1. child's parent or guardian refuse to provide food, clothing, shelter, and necessary parental support for the child and the refusal is a direct result of the child's established pattern of significant disruptive behavior of the child in his or her home;

2. child refuses to remain under the reasonable care and custody of his or her parents or guardian, by repeatedly running away and failing to comply with a court order; or

3. child has (a) failed to successfully complete an alternative treatment program or comply with a court-ordered sanction and (b) been placed in a residential program under court order at least once before (Fl. Stat. Ann. § 984.225).

The court must order the child's parents or guardian to cooperate with efforts to reunite the family, participate in counseling, and pay all costs associated with the care and counseling provided to the family to the extent the family is able to pay as determined by the court.

The staff-secure shelter is not a locked facility. If, at the end of the commitment, the child's parents or guardian still refuse to allow the child to come home, the court transfers the child to the care and custody of DCFS.

If a child leaves the shelter prior to the end of his or her court-ordered placement, the facility alerts the police, who may take the child into custody and either return the child to (1) his or her parents or guardian, (2) a responsible adult relative or responsible adult approved by DJJ, or (3) the shelter (Fla. Stat. Ann. § 984.13).

If the child repeatedly leaves the shelter prior to the end of his or her court-ordered placement, he or she may be placed in a physically secure setting (a locked facility for CINS) for up to 90 days. At any time during the placement, DJJ may submit a report to the court recommending that the child is (1) ready for reunification with his or her parents or guardian or (2) unlikely to benefit from continued placement in the setting and is more likely to benefit from a different type of placement (Fla. Stat. Ann § 984.226).

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